

TITLE 14. Fish and Game Commission

Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 240, 7071, 8587.1 and 8588, of the Fish and Game Code and to implement, interpret or make specific sections 240, 8585.5, 8587.1 and 8588 of said Code, proposes to amend sections 150.06 and 150.16, Title 14, California Code of Regulations, relating to Seasonal Closures for Cabezon, Greenling, Sheephead and Rockfishes.

Informative Digest/Policy Statement Overview

Revisions to existing state regulations for rockfish (including California scorpionfish), and lingcod, and also for cabezon, greenlings, and sheephead (CGS) are needed, largely due to new federal groundfish laws that will become effective January 1, 2003. These proposed changes include 1) Re-define current state seasonal regulations which conflict with federal commercial regulations for rockfish and lingcod in 2003; 2) Eliminate conflicting fishing seasons for nearshore rockfish and CGS; and 3) Bring CGS regulations for the northern area [40°10' N. lat (near Cape Mendocino) to the Oregon Border] into alignment with either the 2003 nearshore rockfish season in the northern area or the CGS season in the rest of the state. The Department recommends a uniform statewide commercial season for CGS.

Existing state regulations establish a northern and southern rockfish and lingcod management area and seasonal closure periods for each area. These closure periods will not be consistent with federal regulations for shallow and deeper nearshore rockfishes and California scorpionfish that were adopted for 2003. It is desirable to have consistent state and federal open and closed periods for the purpose of enforcement, as well as for the regulations to work effectively to keep catches within allowable harvest levels.

Furthermore, leaving commercial seasons for CGS open while federal seasons for minor nearshore rockfish are closed will result in bycatch of rockfish that cannot legally be retained and sold. Since rockfish suffer mortality and stress from hooks, traps and barotrauma when the law requires they be released, having seasons out of alignment is not desirable for the health of the resource. Aligned seasons allows targeting on the various nearshore fish stocks to co-occur at the same time during open periods, while during closed periods, interaction and bycatch of species that cannot be retained are minimized.

NOTICE IS GIVEN that any person interested may present statements, orally or in

writing, relevant to this action at a hearing to be held in the Board of Supervisors Chambers, 981 "H" Street, Suite 100, Crescent City, on Friday, October 25, 2002, at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Monterey Beach Resort Hotel, 2600 and Dunes Driv and Highway 1, Monterey, on Friday, December 6, 2002, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments may be submitted on or before Monday, December 2, 2002 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov, but must be received no later than December 6, 2002, at the hearing in Monterey. E-mail comments must include the true name and mailing address of the commentor.

The regulations as proposed in ~~strikeout~~-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John M. Duffy, Assistant Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to John M. Duffy or Tracy L. Reed at the preceding phone number. Ms. Patricia Wolf, Marine Manager, Department of Fish and Game, (562) 342-7108 has been designated to respond to questions on the substance of the proposed regulations. Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the above address. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.dfg.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained

from the address above when it has been received from agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, as the actions simply seek to shift various months in which fishing activities may occur or not occur.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.

- (c) Cost Impacts on a Representative Private Person or Business:

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State agencies or Costs/Savings in Federal funding to the State: None.

- (e) Nondiscretionary Costs/Savings to Local Agencies: None.

- (f) Programs Mandated on Local Agencies or School Districts: None.

- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.

- (h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business.

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FISH AND GAME COMMISSION

John M. Duffy
Assistant Executive Director

Date: October 8, 2002